

LEGISLATURE OF NEBRASKA
NINETY-NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 101

Introduced by Byars, 30; Chambers, 11; Jensen, 20

Read first time January 6, 2005

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to health and human services; to state intent
2 relating to a medicaid waiver; to provide for intensive
3 early intervention behavior therapy services for children
4 with autism spectrum disorder; to provide payment rates;
5 to require a report; to provide an operative date; and to
6 declare an emergency.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. It is the intent of the Legislature that the
2 Department of Health and Human Services Finance and Support shall
3 amend its current medicaid waiver to provide any federal funding
4 which may be available for the purpose of funding intensive early
5 intervention behavior therapy services for children with autism
6 spectrum disorders. The purposes of such services are to improve
7 the child's behavior, to prevent development of challenging
8 behavior, to eliminate autistic behavior, to reduce the risk of
9 out-of-home placement, and to establish independent typical
10 functioning in language and social behavior.

11 Sec. 2. (1) A child is eligible for intensive early
12 intervention behavior therapy services for autism spectrum disorder
13 if, pursuant to a diagnostic assessment by a mental health
14 practitioner licensed under the Uniform Licensing Law who meets the
15 requirements of section 5 of this act and is not employed by a
16 provider of intensive early intervention behavior therapy services
17 for children with autism spectrum disorders, the child (a) is
18 diagnosed as having an autism spectrum disorder, (b) has a current
19 intelligence quotient which is either untestable or not less than
20 thirty, (c) if nonverbal, has had behavior therapy initiated not
21 later than forty-two months of age, (d) if verbal, has had behavior
22 therapy initiated not later than four years of age, and (e) if he
23 or she has an intelligence quotient of fifty or higher, has had
24 behavior therapy initiated not later than seven years of age. An
25 individualized treatment plan as described in section 3 of this act
26 shall be prepared for the child.

27 (2) The child and at least one of his or her parents or
28 primary care providers shall participate in not less than five

1 hours per week of intensive early intervention behavior therapy
2 services provided by a team which meets the requirements of section
3 5 of this act. The parents or other primary care provider shall
4 implement the recommendations resulting from such therapy on a
5 twenty-four-hour-per-day basis. Every six months after the child
6 has been receiving intensive early intervention behavior therapy
7 services, the child, the therapy team, and the child's parents or
8 other primary care provider shall participate in an individualized
9 treatment plan review. To continue receiving intensive early
10 intervention behavior therapy services after such individualized
11 treatment plan review, the child must show documented progress
12 toward mastery of six-month benchmark behavior objectives.

13 (3) The maximum number of months for which the provider
14 of intensive early intervention behavior therapy services may be
15 reimbursed under the medical assistance program established under
16 sections 68-1018 to 68-1025 is sixty, except that if the child has
17 not made significant progress toward benchmark behavior objectives
18 and treatment goals after twenty-four months of such services, such
19 services shall no longer be eligible for such reimbursement.

20 Sec. 3. The provider of intensive early intervention
21 behavior therapy services for a child with autism spectrum disorder
22 shall treat the principal presenting features of such disorder. A
23 mental health practitioner licensed under the Uniform Licensing Law
24 who meets the requirements of section 5 of this act shall develop
25 an individualized treatment plan for a child receiving intensive
26 early intervention behavior therapy services for autism spectrum
27 disorder. The individualized treatment plan shall be based upon
28 research in applied behavior analysis with emphasis on positive

1 reinforcement of task-analyzed skills for optimum rates of progress
2 and shall include, but not be limited to:

3 (1) Six-month benchmark behavior objectives;

4 (2) Consistent daily application of all therapy
5 recommendations by all of the child's regular care providers;

6 (3) A requirement that if the child is placed in school
7 activities, a majority of his or her peers in the activities have
8 no mental health diagnosis and that the child have sufficient
9 social skills to succeed with eighty percent of the school
10 activities; and

11 (4) A requirement that reactive consequences including
12 redirection, correction, positive practice, or timeout will be used
13 only when necessary to improve the child's success when positive
14 reinforcement procedures alone have not been effective.

15 Sec. 4. Intensive early intervention behavior therapy
16 services may be provided in a medical facility, the child's home,
17 his or her school or preschool classroom, the home of a relative of
18 the child, a recreational setting, or a child care facility. A
19 ninety-minute clinical review meeting of the child, his or her
20 parents or other primary care provider, and the team shall be
21 conducted once a week for at least fifty weeks each year.

22 As determined by data on effectiveness and by the
23 six-month individualized treatment plan reviews required pursuant
24 to section 2 of this act, the team providing intensive early
25 intervention behavior therapy services may be reimbursed under the
26 medical assistance program established under sections 68-1018 to
27 68-1025 for not more than two thousand five hundred billable hours
28 per year of direct onsite intensive early intervention behavior

1 therapy services to the child and his or her parents or other
2 primary care provider. Prior authorization is required for
3 reimbursement under the program for services provided in excess of
4 two thousand five hundred hours annually.

5 Sec. 5. The members of the team providing intensive
6 early intervention behavior therapy services shall be mental health
7 practitioners licensed under the Uniform Licensing Law who are
8 capable of providing consistently applied behavioral analysis-based
9 behavior therapy. Each member of the team shall have completed
10 three credit hours of academic content and practice in an applied
11 behavioral analysis sequence at an accredited college or university
12 before providing more than twelve months of intensive early
13 intervention behavior therapy services. At least one member of the
14 team shall have completed twelve hours of academic content and
15 practice in an applied behavioral analysis sequence at an
16 accredited college or university, and such member shall serve as
17 the clinical supervisor for the team.

18 A mental health practitioner providing intensive early
19 intervention behavior therapy services shall participate in not
20 less than three hours of continuing education in applied behavioral
21 analysis annually.

22 Sec. 6. The following payment rates shall apply:

23 (1) For the member of the team serving as clinical
24 supervisor pursuant to section 5 of this act, the submitted charge
25 or eighty-seven dollars per hour unit, whichever is less;

26 (2) For the other members of the team, the submitted
27 charge or sixty-seven dollars per hour unit.

28 Members of the team may receive payment for mileage at

1 the rate provided pursuant to sections 81-1174 to 81-1177 for not
2 more than three hundred miles per year.

3 Sec. 7. The Director of Finance and Support shall report
4 to the Legislature on the effectiveness of intensive early
5 intervention behavior therapy services not later than July 1, 2010.

6 Sec. 8. This act becomes operative on July 1, 2005.

7 Sec. 9. Since an emergency exists, this act takes effect
8 when passed and approved according to law.